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-- REMARKS --

Applicant regrets that the Examiner was unreachable after attempts to contact the Examiner by the Applicant's representative on July 26, 2005, August 8, 2005 and August 24, 2004 went unanswered. Claims 1-21 were rejected by the Examiner on various grounds. The Applicant addresses each of these grounds as recited herein.

A. Claims 1-18 were rejected under 35 USC §101

Claims 1-18 were rejected under 35 USC §101 as being directed to nonstatutory subject matter. This rejection is traversed. However, in an effort to move the prosecution of this application along, claims 1, 2, 4, 10, 11 and 13 have been amended to include in the body of the claim the computer structure recited in the preamble of independent claims 1 and 10. Claims 1, 2, 4, 10, 11 and 13 are directed to statutory subject matter. The withdrawal of the §101 rejection of claims 1, 2, 4, 10, 11 and 13 is requested.

Claims 3 and 5-9 depend directly or indirectly from independent claim 1 and include all of the limitations of that claim. Withdrawal of the §101 rejection to claims 3 and 5-9 is requested. Claims 12 and 14-18 depend directly or indirectly from independent claim 10 and include all of the limitations of that claim. Withdrawal of the §101 rejection to claims 12 and 14-18 is requested.

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B. Claims 1-21 were rejected under 35 U.S.C. §103(a) as unpatentable over admitted prior art and Shida (US Pub. No. 2002/0087396) in view of "LEAVE INFORMATION"

The §103(a) rejection of claims 1-21 as unpatentable over admitted prior art and Shida in view of "Leave Information" is traversed.

First, the cited reference entitled "Leave Information" is not a proper printed publication. As the Examiner is aware, a reference qualifies as a printed publication upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it. (see MPEP 2128). The Examiner has not met this burden. The Examiner has offered no proof that the Leave Information reference "has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it" as required. The Examiner merely offers a citation to a web site address indicating that the proffered reference was downloaded on May 26, 2005, a date long after the filing date of the present application. Furthermore, the fact that the reference mentions a date of May 8, 2000 is not sufficient proof that the reference was disseminated or otherwise made available in the manner required in order to be used as a proper reference. Therefore, because the Leave Information reference is an improper reference, the rejection of claims 1-21 under §103(a) must fail. For this reason, the Applicants respectfully request that the rejection of claims 1-21 under §103(a) as being unpatentable over admitted prior art and Shida in view of "Leave Information" be withdrawn.

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Second, the references, alone or in combination do not teach, at a minimum, a method of providing awards to a customer. Rather, the Leave Information reference teaches a policy for providing sick leave to employees. Teaching a policy of providing sick leave does not equal the method of providing awards to a customer as claimed and described by the Applicant. The Applicant claims, a method for providing awards to a customer including receiving an award request, determining if the customer has a number of points to meet a predetermined number of points corresponding to the award request and authorizing a points overdraft if the customer has less than the predetermined number of points as recited in independent claim 1 (similar elements are claimed in corresponding claims 10 and 19). The Examiner relies on the Leave Information reference to teach these elements and properly does not rely on either the admitted prior art or the Shida patent to teach these limitations.

The Examiner alleges that because the reference "discloses that sick leave is earned and is redeemed as needed" and that "one can borrow sick leave against future earnings and has to repay them against earnings, or in cash if one quits before enough leave accumulates" the reference teaches the limitations recited in independent claims 1, 10 and 19, as well as claims 2, 4, 5, 7, 8, 11, 13, 14, 16, 17, 20 and 21 depending therefrom. Specifically, the Examiner alleges that "getting regular pay while on sick leave," teaches the limitation of receiving an award request as recited in claims 1, 10 and 19. While the Applicant is aware that the specification is not read into the claims, the specification is used to define the scope of the claims. Nowhere in the specification does the Applicant equate or define an award request as receiving regular pay while on sick leave (see page 8 lines 2-6). More importantly, one of ordinary skill in the art would also not make this leap unless they use impermissible hindsight as the Examiner has apparently done.

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Therefore, as the Leave Information reference does not teach or suggest, at a minimum, receiving an award request as claimed and described by the Applicant, the rejection of independent claims 1, 10 and 19 must fail. Additionally, neither the admitted prior art nor the Shida parent cures this defect. Thus, the withdrawal of the rejection of claims 1, 10 and 19 under §103(a) is requested. Claims 2-9, 11-18 and 20-21, depend from independent claims 1, 10 and 19, respectively and include all of the limitations of those claims. For this reason claims 2-9, 11-18 and 20-21 are also allowable over the cited art. The withdrawal of the rejection of claims 2-9, 11-18 and 20-21 under §103(a) is requested.

Lastly, assuming that the Leave Information reference is a proper printed publication (and the Applicant does not concede that it is) this reference is not an analogous prior art reference as alleged by the Examiner, and, therefore, for this additional reason the rejection under §103(a) must fail. The Examiner alleges that "[s]ick leave is analogous to points, as redeemable earnings" (see page 8 of the office action). The Examiner further states that this reference is reasonably pertinent to the particular problem with which the inventor was concerned. A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem," (see MPEP 2141.01(a)). However, the Examiner misstates the particular problem which the present invention addresses. The Examiner states that both the Leave Information reference and the Applicant invention are both concerned with attracting and retaining loyal customers (employees) by providing advanced points (sick leave). Contrary to the Examiner's assertion, the particular problem that the Applicant's invention addresses is how a business concern can best reward customers for buying goods and services. Furthermore, a program for providing sick leave to an employee is not reasonably pertinent to an award program nor is it matter that would logically commend itself to an inventor's attention when looking to provide a reward program for valued customers. For at least this additional reason the rejection of claims 1-21 under §103(a) is respectfully requested.

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Further regarding claims 6 and 15, the Examiner took Official Notice that "it is well known for a business to charge interest on loans in order to make a profit." The Applicant traverses this Official Notice, taken by the Examiner. Even if this Official Notice were correct, it does not address the claims as recited by the Applicant. The Applicant does not recite limitations of charging interest on a loan in order to make a profit. Therefore, this taking of Official Notice is in error and should be withdrawn.

Withdrawal of the rejection of claims 6 and 15 under 35 U.S.C. §103(a) is requested. Withdrawal of the official notice of the claim limitations recited in claims 6 and 15 is requested.

C. Claims 22-23 are patentable over the cited art

Claims 22-23 depend from claim 1 and include all of the limitations of that claim. For at least this reason claims 22-23 are allowable over the cited art. Specifically, the cited references, alone or in combination do not teach or suggest the claimed method wherein points are accrued by purchasing goods and services from at least one company as recited in claim 22 or a method wherein an award request includes a request for an award chosen from a group consisting of air travel mileage, rental car privileges, consumer goods, consumer services, and hotel rooms as recited in claim 23. The allowance of claims 22-23 is respectfully requested.

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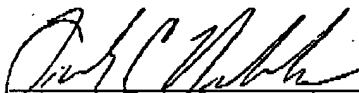
SUMMARY

The Applicant respectfully submits that claims 1-23 fully satisfy the requirements of 35 U.S.C. §§ 101, 102, 103 and 112. In view of the foregoing amendments and remarks, favorable consideration and early passage to issue of the present application are respectfully requested.

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Respectfully Submitted,
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